



IT IS ORDERED

Date Entered on Docket: August 17, 2018

The Honorable David T. Thuma
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW MEXICO

IN RE:

DAVID HERNANDEZ and
DELFINA HERNANDEZ

Debtors

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CASE NO. 18-11671-t7

CHAPTER 7

**DEFAULT ORDER GRANTING 21ST MORTGAGE CORPORATION
RELIEF FROM STAY AND ABANDONMENT OF
REAL PROPERTY AND 2008 MANUFACTURED HOME**

This matter came before the Court on the Motion for Relief from Stay and to Abandon real property and 2008 Manufactured Home filed on July 17, 2018 (Docket No.10) (the “Motion”) by 21st Mortgage Corporation (“Movant”). The Court, having reviewed the record and the Motion, and being otherwise sufficiently informed, FINDS:

1. On July 17,2018, Movant served the Motion and a Notice of the Motion (the “Notice”) on Debtor, by first class mail as listed on creditor matrix and the Debtor’s attorney and case trustee (the “Trustee”) and by use of the Court’s case management and electronic filing system for the transmission of notices, as authorized by Fed. R. Civ. P. 5(b)(3) and NM LBR 9036-1, and

on all parties listed on the Debtor's creditor matrix by United States first class mail, in accordance with Bankruptcy Rules 7004 and 9014.

2. The Motion relates to the following property ("Property") real property and manufactured home located at 29 Sangre de Cristo Rd., Placitas, Sandoval County New Mexico 87043, and described as follows:

Tracts A-2, as the same is shown and designated on the plat entitled "SUMMARY PLAT OF TRACT A WITHIN THE NE 1/4 OF SECTION 22, T13N, R5E, N.M.P.M., SANDOVAL COUNTY, PLACITAS, NEW MEXICO, MAY, 1996", filed in the office of the County Clerk of Sandoval County, New Mexico, on May 16, 1996 in Vol. 3, Folio 1438-B.

including the 2008 KARS 93KAR Model Manufactured Home, Serial Number NME003890NMAB attached thereto.

3. The Notice specified an objection deadline of 21 days from the date of service of the Notice, to which three days was added under Bankruptcy Rule 9006(f);

4. The Notice was sufficient in form and content;

5. The objection deadline expired on August 10, 2018;

6. As of August 13, 2018, neither the Debtor nor the Trustee, nor any other party in interest, filed an objection to the Motion;

7. The Motion is well taken and should be granted as provided herein; and

8. By submitting this Order to the Court for entry, the undersigned counsel for Movant certifies under penalty of perjury that, on August 13, 2018, Susan P. Crawford searched the data banks of the Department of Defense Manpower Data Center ("DMDC"), and found that the DMDC does not possess any information indicating that the Debtor is currently on active military duty of the United States.

IT IS THEREFORE ORDERED:

1. Pursuant to 11 U.S.C. §362(d), Movant and any and all holders of liens against the Property, of any lien priority, are hereby granted relief from the automatic stay:

(a) To enforce their rights in the Property, including foreclosure of liens and a foreclosure sale, under the terms of any pre-petition notes, mortgages, security agreements, and/or other agreements to which Debtor is a party, to the extent permitted by applicable non-bankruptcy law, such as by commencing or proceeding with appropriate action against the Debtors or the Property, or both, in any court of competent jurisdiction; and

(b) To exercise any other right or remedy available to them under law or equity with respect to the Property.

2. The Trustee is deemed to have abandoned the Property from the estate pursuant to 11 U.S.C. §554 as of the date of entry of this Order, and the Property therefore no longer is property of the estate. As a result, Movant need not name the Trustee as a defendant in any state court action it may pursue to foreclosure liens against the Property and need not notify the Trustee of any sale of the Property.

3. The automatic stay is not modified to permit any act to collect any deficiency or other obligation as a personal liability of the Debtor, although the Debtor can be named as a defendant in litigation to obtain an in rem judgment or to repossess the Property in accordance with applicable non-bankruptcy law.

4. This Order does not waive Movant's claim against the estate for any deficiency owed by the Debtors after any foreclosure sale or other disposition of the Property. Movant may file an amended proof of claim this bankruptcy case within 30 days after a foreclosure sale of the Property, should it claim that Debtors owe any amount after the sale of the Property.

5. This Order shall continue in full force and effect if this case is dismissed or converted to a case under another chapter of the Bankruptcy Code.

6. This order is effective and enforceable upon entry. The 14-day stay requirement of Fed. R. Bankr. P. 4001(a)(3) is waived.

*** *END OF ORDER* ***

Submitted by:

By: /s/ Susan P. Crawford
Susan P. Crawford
State Bar No. 24695

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United States Trustee
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Party Requesting Notice:

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